

REMARKS/ARGUMENTS

We have amended the claims to more particularly point out and distinctly claim the inventions. We have also added new dependent claims 16-20. After entering the amendments identified herein, claims 1-20 will be pending in this application.

The examiner provisionally rejected claims 1-15 under the judicially created doctrine of obviousness-type double patenting over claims 1-19 of copending Application No. 10/782,057. As the basis of this rejection, the examiner argued "the instant claim 1 was narrower in scope than that of pending claim 1 of the '057 and therefore already covered by the limitations of said pending claims." However, that is not the appropriate standard for an obviousness-type double patenting rejection. The issue is whether the invention as defined in the present claims is an obvious variation of the invention claimed in the other application.

Using that standard, we note that claim 1 of the present application recites the following features none of which are mentioned in the claims of the '057 application:

...(2) imaging the first array of spots onto a second image plane, (3) imaging the second array of spots onto the second image plane...wherein each spot of the imaged first array of spots in the second image plane coincides with a corresponding different spot of the imaged second array of spots in the second image plane and is aligned with a corresponding different pinhole of the detector-side pinhole array...

Referring to Fig. 2e of the present application, the two imaged arrays of spots in the second image plane are represented by spots 194 and 196. The imaged first and second arrays of spots in the second image plane that are recited in the present claim 1 are neither mentioned nor rendered obvious by the claims of the '057 application. Indeed, the embodiments described in the '057 application do not even disclose such arrays of spots in an intermediate image plane, i.e., an image plane that lies between the first and third image planes.

Furthermore, claim 1 of the '057 application also recites:

...wherein the first and second arrays of spots are displaced from each other in both a direction normal to the object plane and a direction parallel to the object plane...

That is a narrower limitation than what is found in the present claim 1 which states:

...wherein the first and second arrays of spots are displaced relative to each other in a direction that is normal to the object plane...

So, contrary to what the examiner argues, at least from the perspective of that limitation, the present claims are broader in scope than the claims of the '057 application.

We submit that the obviousness-type double patenting rejection is improper in this situation.

For the reasons stated above, we believe that the claims are allowable and therefore ask the Examiner to allow them to issue.

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Respectfully submitted,

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